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tion was not material, but such a finding is hard to sustain for a false representation as to the manufacturer of the article sold would seem to be very material. *Manhattan Co. v. Wood* (1883) 108 U. S. 218. The representation in the principal case would lead the public to believe that the goods sold by the plaintiff were better than goods sold by other dealers at the same price, for in his case the middleman's profit would be saved.

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**JOINT-LIABILITY FOR TORT.**—Joint-liability for tort involving, as it does, the liability of each tort-feasor for the entire damage done is ordinarily rested on intentional coöperation, and where this element is clearly present the courts have found no difficulties. *Williams v. Sheldon* (1833) 10 Wend. 654. It is apparent that the coöperation here required is in mental attitude; that is, the tort-feasors must act with joint volition and it is immaterial whether or not their acts merge in a single injurious effect. Alabama appears to make this the essential requirement of joint-liability, *R. & D. R. R. Co. v. Greenwood* (1892) 99 Ala. 501, and Wisconsin has also intimated, in a dictum, that this strict rule should be adhered to. *Lull v. F. & W. Imp. Co.* (1865) 19 Wisc. 112. Pennsylvania, though apparently taking the contrary view in *Downey v. Phil. Tract. Co. et al.* (1894) 161 Pa. St. 588, seems to be in accord in *Wiest v. Elect. Tract. Co.* (1901) 200 Pa. St. 148. An additional test, however, has been applied in most jurisdictions, which may be designated as coöperation in physical result. *Colegrove v. R. R. Cos.* (1859) 20 N. Y. 492; *Matthews v. R. R. Cos.* (1893) 56 N. J. L. 34; *Cuddy v. Horn et al.* (1881) 46 Mich. 596. By this test, though coöperation in mental attitude be absent, yet where there are single wrongful acts of different persons which together give rise to a single effect causing the injury, there is a joint-liability. This is well illustrated by the case of *Colegrove v. R. R. Cos.*, supra, where the plaintiff, a passenger on one of the defendant roads was injured in a collision due to separate acts of negligence of the two defendants. Here the two wrongful acts gave rise to the final effect, the collision, by which the plaintiff was injured, and the Court held the defendants to be properly joined. The two wrongful acts were indistinguishably merged in the resultant force which caused the damage and this merger was apparently what the Court relied on as the test of joint-liability. Between this class of cases and another class, represented by a recent Ohio case, the line of distinction is at first sight narrow. In that case the defendant city and several individuals rendered a stream unfit for the plaintiff's use by depositing refuse in it. In a suit for damages and an injunction it was held that the defendant was not a joint tort-feasor, and its liability only extended to the quantum of pollution caused by its own acts. *Standard Bag & Paper Co. v. Cleveland* (1903) 49 Ohio Law Bulletin 380. The distinction, a clear one in fact, is that in this case the wrongful act of each produces a separate result which may be roughly measured by the amount of refuse deposited by each, while in the Colegrove case the acts of each ceasing to operate separately become merged in a single resultant force which effects

the injury. That this distinction is recognized and made the basis for arriving at different results is illustrated by the case of *Chipman v. Palmer* (1879) 77 N. Y. 51, practically identical in facts and holding with the Ohio case, though in the same jurisdiction with the Colegrove case.

The additional test of joint-liability as illustrated by the Colegrove and analogous cases may be supported whether the injury is a natural and probable consequence of the respective negligent acts of the defendants or whether the amount of injury is far in excess of anything which a reasonable man could, in theory of law, be required to foresee. If the entire injury follows naturally from the negligence, it is obviously proper to hold either defendant for the whole damage, *Village of Cartersville v. Cook* (1889) 129 Ill. 152, and to avoid a multiplicity of actions a joint suit is perhaps justifiable. Where, however, the injury far exceeds the natural and probable consequences of either act alone it is equally clear that an action against any one defendant for the entire damage, on the ordinary principles of negligence, would not be maintainable. But the inherent impossibility in this class of cases of separating and proving the quantum of injury done by each party seems to justify giving the plaintiff a joint action, *Slater v. Mersereau* (1876) 64 N. Y. 138. If the interests of the plaintiff, however, demand this result, justice to the defendants seems to require that the one who has been compelled to pay for the entire damage should be allowed contribution from the other. This point has not been the subject of decision, but an exception to the general rule that there is no contribution among joint tortfeasors seems justifiable here for reasons analogous to those advanced in the cases where, notwithstanding the rule, contribution has been allowed, that is, where there was no conscious wrongdoing by the party held for the entire damage, *Bailey v. Bussing* (1859) 28 Conn. 455. With these conclusions it is proper to notice, under circumstances like those in the Ohio case, a distinction, the ignoring of which has led to some confusion, between an action at law for damages where there is properly no joint-liability and a bill in equity to restrain the continuing wrongful acts of several defendants which together cause the plaintiff an injury. In the latter case it is held proper to join the several wrongdoers and enjoin all their acts in one decree. This distinction was pointed out in *Chipman v. Palmer*, supra, and has been generally adopted. *Thorpe v. Brumfitt* (1873) L. R. 8 Ch. App. 650; *Hillman v. Newington* (1880) 57 Cal. 56.

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CORPORATE LIABILITY FOR AGENTS' FRAUDULENT DEALING WITH STOCK.—Few branches of the law have produced a judicial conflict so remarkable for its persistence and vigor as that branch involving the liability of a principal for the fraud of his agent upon the ground of estoppel. In general two doctrines stand out in sharp contrast. In England the principal will not be bound unless the act be not only within the apparent authority but also for the principal's benefit. *Barwick v. English Joint Stock Bank* (1867) L. R. 2 Ex. 259.